

August 2, 2001

**MEMORANDUM:**

**TO:** Members of the Private Security Industry and Interested Parties

**FROM:** Leon D. Baker, Jr., Section Chief, Department of Criminal Justice Services

**RE:** Legislation Effective July 1, 2001

The 2001 Acts of the General Assembly mandated several changes to Section 9-183.1.; 9-183.2.; and 9-183.3. of the Code of Virginia. Some of these changes will require amendments to 6 VAC 20-171, The Regulations Relating to Private Security Services, which will be made over the next 60 days. The legislative changes are listed below (provisions in Italics represents new language and provisions with strikethroughs represents deleted language):

**§ 9-183.1 Definitions.**

*"Employed" means to be in an employer/employee relationship where the employee is providing work in exchange for compensation and the employer directly controls the employee's conduct and pays some taxes on behalf of the employee. The term "employed" shall not be construed to include independent contractors.*

*"General public" means individuals who have access to areas open to all and not restricted to any particular class of the community.*

*"Natural person" means an individual person.*

**§ 9-183.2. Exceptions.**

2. A person, *except a private investigator as defined in § 9-183.1*, engaged ~~(i)~~ exclusively in the business of obtaining and furnishing information regarding an individual's financial rating. ~~or (ii) a person engaged in the business of a consumer reporting agency as defined by the Federal Fair Credit Reporting Act.~~ *This exception shall not apply to private investigators as defined in § 9-183.1.*

5. A person receiving compensation for private employment as a security officer, *or receiving compensation under the terms of a contract, express or implied, as a security officer*, who is also a law-enforcement officer as defined by § 9-169 and employed by the Commonwealth or any political subdivision thereof.

7. ~~Persons who are regularly employed to investigate accidents or to adjust claims and who do not carry weapons in the performance of their duties~~ *conduct investigations as a part of the services being provided as a claims adjuster, by a claims adjuster who maintains an ongoing claims adjusting business, and any natural person employed by the claims adjuster to conduct investigations for the claims adjuster as a part of the services being provided as a claims adjuster.*

8. ~~Regular employees of persons engaged in other than the private security services business, where the regular duties of such employees primarily consist of protecting the property of their employers~~ *Any natural person otherwise required to be registered pursuant to § 9-183.3. who is employed by a business that is not a private security services business for the performance of his duties for his employer. Any such employee, however, who carries a firearm and is in direct contact with the general public in the performance of his duties shall possess a valid registration with this Department as provided in subsection B of § 9-183.3. the Department as required by this article. "General public" means individuals who have access to areas open to all and not restricted to any particular class of the community.*

20. *Any person, or independent contractor or employee of any person, who (i) exclusively contracts directly with an agency of the federal government to conduct background investigations and (ii) possesses credentials issued by such agency authorizing such person, subcontractor or employee to conduct background investigations.*

### **§ 9-183.3. Licensing and registration.**

J. No person with a criminal ~~record of conviction~~ *for a misdemeanor involving (i) moral turpitude, (ii) assault and battery, (iii) damage to real or personal property, (iv) controlled substances or imitation controlled substances as defined in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, (v) prohibited sexual behavior as described in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or (vi) firearms, or any felony shall be (i)-(a) employed as a registered or certified employee by a private security services business or training school or (ii) (b) issued a private security services registration, certification as an unarmed security officer, electronic security employee or technician's assistant, a private security services training school or instructor certification, compliance agent certification, or a private security services business license, except that, upon written request, the Director of the Department of Criminal Justice Services may waive such prohibition.*